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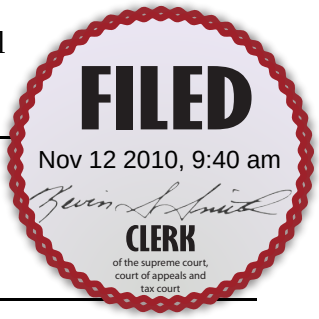

IN THE COURT OF APPEALS OF INDIANA

JOSEPH L. HASKETT,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 52A02-1004-CR-505
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MIAMI SUPERIOR COURT
The Honorable Robert A. Spahr, Judge
Cause No. 52C01-0911-FA-58

November 12, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Joseph Haskett appeals his sentence for Class B felony dealing in methamphetamine.[1] We affirm.

FACTS AND PROCEDURAL HISTORY

On July 8, 2009, Haskett sold methamphetamine to a confidential informant. He was arrested and charged with Class B felony dealing in methamphetamine, Class D felony possession of methamphetamine,[2] and being an Habitual Substance Offender.[3] Haskett entered a plea of guilty to Class B felony dealing in methamphetamine, and the State dropped the other charges against him.

The trial court held a sentencing hearing and found the following aggravators:

> (1) the Defendant has an extensive prior criminal record; (2) the Defendant is in need of correctional or rehabilitative treatment that can best be provided by his commitment to a penal facility; and (3) the Defendant was on parole during the time of the offenses and recently violated the conditions of his parole.

(App. at 125.) The court found as a mitigator that "the Defendant entered into a plea agreement and saved Miami County the expense of a jury trial." (*Id*.) Haskett received a twelve-year sentence, with three years suspended, for a total time incarcerated of nine years.

DISCUSSION AND DECISION

We may revise a sentence if it is inappropriate in light of the nature of the offense and the character of the offender. *Williams v. State*, 891 N.E. 2d 621, 633 (Ind. Ct. App. 2008) (citing Ind. Appellate Rule 7(B)). We consider not only the aggravators and mitigators found

[1] Ind. Code § 35-48-4-1.1.
[2] Ind. Code § 35-48-4-6.1(a).
[3] Ind. Code § 35-50-2-10(b).

by the trial court, but also any other factors appearing in the record. *Roney v. State*, 872 N.E.2d 192, 206 (Ind. Ct. App. 2007), *trans. denied*. The appellant bears the burden of demonstrating his sentence is inappropriate. *Childress v. State*, 848 N.E.2d 1073, 1080 (Ind. 2006).

When considering the nature of the offense, the advisory sentence is the starting point to determine the appropriateness of a sentence. *Anglemyer v. State*, 868 N.E.2d 482, 494 (Ind. 2007), *clarified on reh'g* 878 N.E.2d 218 (Ind. 2007). The advisory sentence for a Class B felony is ten years, with a range of six to twenty years. Ind. Code § 35-50-2-5. One factor we consider when determining the appropriateness of a deviation from the advisory sentence is whether there is anything more or less egregious about the offense committed by the defendant that makes it different from the "typical" offense accounted for by the legislature when it set the advisory sentence. *Rich v. State*, 890 N.E.2d 44, 54 (Ind. Ct. App. 2008), *trans. denied*. Haskett argues his crime is no different from "typical" Class B felony drug dealing, but he offers no explanation or authority to support that argument.

When considering the character of the offender, one relevant fact is the defendant's criminal history. *Rutherford v. State*, 866 N.E.2d 867, 874 (Ind. Ct. App. 2007). The significance of a criminal history in assessing a defendant's character varies based on the gravity, nature, and number of prior offenses in relation to the current offense. *Id*. Haskett has six prior convictions, some of which are drug related, and numerous parole and probation violations. In addition, Haskett was on parole when he committed this offense, which reflects poorly on his character. *See Rich*, 890 N.E.2d at 54 (committing "offenses while on

probation is a substantial consideration in our assessment of his character"), *trans. denied*.

Haskett cites *Davis v. State*, 851 N.E.2d 1264 (Ind. Ct. App. 2006), *trans. denied*, in support of his argument that his sentence should be reduced. *Davis* is distinguishable. Davis was given the maximum sentence for Class C felony operating a vehicle while intoxicated,[4] and we reduced her sentence by four years. She had only one prior conviction and had made significant efforts to improve herself, including attending Alcoholics Anonymous meetings and maintaining steady employment. Haskett, by contrast, has multiple prior convictions and arrests, and was released from jail just sixteen days before he committed the instant offense. At his sentencing hearing, Haskett presented witnesses who portrayed him as a good father who attended church, but his criminal history and actions in the instant offense support a determination his sentence is appropriate.

Haskett's twelve-year sentence for a Class B felony is closer to the ten-year advisory sentence than the twenty-year maximum sentence. Even if his crime was a "typical" drug deal, Haskett's character justifies a sentence at least two years above the advisory. Thus, we cannot find Haskett's sentence inappropriate.[5]

Affirmed.

ROBB, J., and VAIDIK, J., concur.

[4] Ind. Code § 9-30-5-4.

[5] Haskett also requests that we allow him to serve his sentence at the Lake County Community Corrections Offender Re-Entry Program, as it would better accommodate his addiction problems. The State notes the Department of Correction has a similar program. We decline to change the location of Haskett's incarceration.